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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,908	02/10/2006	Junya Kawamoto	KAS-5191	5895

7590 01/05/2010
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EXAMINER

COOLMAN, VAUGHN

ART UNIT	PAPER NUMBER
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3618

MAIL DATE	DELIVERY MODE
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01/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,908	Applicant(s) KAWAMOTO ET AL.	
	Examiner VAUGHN T. COOLMAN	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3618

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim s 1 and 3 recites the limitation "the other sidewalls thereof" in lines 19 and 20, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claims 3 and 6 are rejected as depending from a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 3618

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanda et al (U.S. Patent No. 6,266,901 B1) in view of Kleineisel (DE 197 32 868 A1).

[claims 1 and 4] Kanda discloses a construction machine (FIG 1) comprising a lower travel structure (10), an upper swing structure (30), mounted on said lower travel structure, hydraulic equipment disposed on said lower travel structure and including travel motors (column 11, lines 5-11) and a blade cylinder (54) and hydraulic equipment disposed on said upper swing structure and including valve apparatuses (see man inside cab of machine) for control of said travel motors and said blade, and a swivel joint (110) for coupling a plurality of first tubes (shown in FIG 3 – hoses would be connected to connector ports 124 in 111) extending to said hydraulic equipment disposed on said upper swing structure and including said valve apparatuses (75, 76) for control of said travel motors and said blade cylinder and a plurality of second tubes (FIG 10) extending to said hydraulic equipment disposed on said lower travel structure and including said travel motors and said blade cylinder in a relatively rotatable manner, wherein said swivel joint comprises a body (112) rotating together with said upper swing structure, and a spindle (111) mounted to said lower travel structure, and rotatably inserted in said body, said plurality of first tubes being connected to said body and said plurality of second tubes being connected to said spindle (via 125), said plurality of first tubes and said plurality of second tubes being communicated [communicating] with each other through a plurality of circumferential grooves (122) formed in an inner peripheral surface of said body and an outer peripheral surface of said spindle and through a plurality of axial passages (121) formed inside said spindle.

Art Unit: 3618

Kanda fails to disclose said body having thicker wall portions formed respectively in opposed sidewalls thereof and a plurality of axial passages communicating with said plurality of circumferential grooves are formed respectively inside said thicker wall portions.

Kleineisel teaches a swivel joint (FIG 3) wherein a body (4) of the swivel joint includes thicker wall portions (upper and intermediate portions of body 4, as compared to lower portion of body) formed respectively in opposed sidewalls thereof than the other sidewalls thereof (being the thinner sidewalls at the bottom of the figure) and a plurality of axial passages (63a-c) communicating with a plurality of circumferential grooves (64a-c) are formed respectively inside said thicker wall portions said plurality of axial passages being opened at an upper end surface of said body to provide a plurality of ports and formed in a row, a row being a number of objects formed in a straight line, which would be any two of the ports. The combination would disclose said plurality of first tubes being connected to said plurality of ports whereby said plurality of first tubes are connected to said upper end surface of said body in a concentrated layout. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Kanda with the thicker sidewalls including axial passages therein of Kleineisel in order to provide the advantage of a more compact tubing arrangement that also protects the ports and connectors of the first plurality of tubes from damage.

[claims 3 and 6] Kanda further shows the upper end surface of the body being positioned above a main frame (31) constituting a bottom portion of said swing structure, and said plurality of first tubes are connected to said plurality of ports (124 or 62a-c) at a position higher than a bottom surface of said main frame.

Response to Arguments

Applicant's arguments filed 09/01/2009 have been fully considered but they are not persuasive.

Regarding the first full paragraph of arguments on page 9, applicant is arguing unclaimed subject matter.

Regarding applicant's allegation that body 112 of Kanda does not rotate with the swiveling unit, applicant is directed to column 15, lines 62+ which states that "rotor 112 is coupled to the lower supporting frame section 23" and therefore rotates with the swiveling unit. Furthermore, shaft 11 is mounted to the travel structure via body 113.

Regarding the arguments against the tube connections, applicant only claims the "joint being provided with a plurality of first tubes", and not which body the tubes are connected with. Also, the plurality of second tubes are only claimed as "extend[ing] to said hydraulic equipment . . ." and communicating with grooves and axial passages. Kanda meets these limitations.

Kleineisel teaches the location of axial passages, not necessarily the function of said passages. Furthermore, the swivel joint does not have uniform thickness, and the opposed sidewalls are opposed in a top to bottom relationship, not across from one another. Applicant does not claim any geometry for the body or the sidewalls and as such the Kleineisel reference teaches the claimed structure.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAUGHN T. COOLMAN whose telephone number is (571)272-6014. The examiner can normally be reached on Monday thru Friday, 10am-8pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VAUGHN T COOLMAN
Examiner
Art Unit 3618

/V. T. C./
Examiner, Art Unit 3618

/Hau V Phan/
Primary Examiner, Art Unit 3618